

BEFORE THE DISTRICT CONSUMER DISPUTES REDRESSAL FORUM:  
VIZIANAGARAM.

(UNDER THE CONSUMER PROTECTION ACT, 1986)

*PRESENT:- 1) SRI P.JAGANNADHA RAO, M.COM., B.L., PRESIDENT.*

*2) SRI SMT P.RUKMINI, B.A., B.L., MEMBER.*

*3) SRI G.APPALA NAIDU, M.Com., M.B.A., P.G.D.C.S.,*

*B.L., P.G.D.M.V.O., MEMBER.*

*FRIDAY, THE 29<sup>TH</sup> DAY OF APRIL, 2011.*

C.C.NO:116/2010

Between:

Vaka Venkata Narasimham

S/o late Suri Demudu

Aged 38 years,

, Jami (Mandal)

Vizianagaram District.

..... Complainant

And

The Commissioner Endowments,

. ..... Opposite party

This complaint is coming on for final hearing before us in the presence of Sri V. Ramana Advocate for petitioner and of Sri M. Sankar Rao, Assistant Government Pleader, Advocate for Opposite party and having stood over for consideration, the Forum made the following:-

### **O R D E R**

This is a complaint filed under Section-12 of Consumer Protection Act praying this forum to direct the opposite party to pay Rs.20,000/- towards compensation for not supplying material which he requested for, as per right to information act.

The complainant further submits that he applied to the Information Officer, Endowments about the land covered in S.No:114 of Jami Village which belongs to Yellaramma Devata and there was an error in the details sent by Commissioner, Endowments to the Registrar Office S.Kota and the complainant sent letters to the Commissioner of Endowments and requested for rectification of the same on 29-06-2009, but till today the said problem was not solved. Later he applied to the Information Officer about what is the action taken on the representation given by the complainant, but the same information was not furnished. As such the complainant filed this complaint to direct the opposite party to pay compensation of Rs.20,000/-. Hence this complaint.

Counter filed by the opposite party denying all the allegations mentioned in the complaint, except those which are specifically admitted in the counter and put the complainant to strict proof of

the same. The opposite party further submits that this forum has no jurisdiction to entertain this application and it is further submitted that the applicant filed 1<sup>st</sup> appeal before the Addl. Commissioner of this office by keeping in view of the object of RTI Act 2005 and to maintain the transparency in the administration in public office with true spirit the application of the complainant Dt:12-07-2010 and the 1<sup>st</sup> appeal filed under RTI Act were considered and sent to the concerned sections to verify the records and to furnish information. Accordingly, the section verified the records and informed that there is no such representation Dt:29-06-2009 submitted by the complainant as stated in his application under RTI Act. Accordingly, a letter in C.No:U1/34973/2010 Dt:26-10-2010 was also sent to the applicant and the same was dispatched on 01-11-2010. A copy of the same is enclosed herewith for kind perusal. Hence prays to dismiss the complaint.

Evidence affidavit of both sides filed in chief in support of their contentions. Brief written arguments also filed. Exhibit A1 document marked on behalf of complainant. No documents marked on behalf of opposite party. Heard both sides. Posted for orders, the orders are as follows:

The learned counsel for complainant and opposite parties advanced their arguments reiterating what they have stated in the complaint, counter, evidence affidavits and brief written arguments respectively.

Whether this consumer forum is having jurisdiction to entertain this application or not.

In this case, the complainant paid prescribed fee for the information i.e., what is the action taken on the representation given by him, what are the orders passed by the Commissioner of Endowments on it.

The opposite party elaborately contended that as per paras-1, 2 & 7 of the counter clearly shows that main contention of the opposite party that this forum has no jurisdiction. There is no dispute regarding the provisions of law mentioned in the RTI Act, but the learned counsel for complainant submits that this forum is in addition to and not in derogation of other laws in force as per section-3.

**Section-3:** *The Provisions of this act shall be in addition to and not in derogation of the provisions of any other law for the time being in force.*

As such this forum is having jurisdiction as per

**2005 National Commissioner Revision Petition No:1975/2005**

***Between Dr.S.P. Thirumala Rao, Consultant Physician,***

***Vs.***

***Municipal Commissioner, Mysore City Municipal Corporation***

After placing reliance on the judgment of this Commission in **Smt. Kalawati & ors. Vs. United Vaish Co-operative Thrift & Credit Society Ltd.**, -I(2202) CPJ 71 (NC) and judgment of this commission in **Smt.Ushal Rani Aggarwal Vs.Nagar Palika Parishad** (R.P.No:2774 of 2004) decided on 06-09-2006, it was urged that Section-10 of the said act does not bar the jurisdiction of the District Forum since only the jurisdiction of court has been barred and in view of Section-3 of the C.P. Act, 1986 the matters pertaining to deficiency of service under the Karnataka Right to Information Act can be entertained by the Consumer For a. On the

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Question of additional remedy, reliance was placed on *Fair Air Engineers Pvt. Ltd., & Anr. Vs. N.K. Modi* –III (1996) CPJ 1 (SC) and *Skypak Couriers Ltd. Vs. Tata Chemicals Ltd.* – AIR 2000 SC 2008 in which it was held that despite the existence of an arbitration clause, the complaint by a consumer under C.P. Act 1986 was tenable since the remedy provided under the C.P. Act is in addition to the provisions of law for the time being in force. Reliance was also placed on the judgment on *Development Authority Vs.M.K. Gupta-* (1994) 1 SCC 243 and it was urged that revision be allowed and compensation ordered by the District Forum be maintained.

We may at this stage point out that the findings of the District Forum with reference to Section-10 & 11 are supported by reasons which do not call for any interference. In fact, the view taken by the District Consumer Forum is in consonance with the rulings of this Commission in the case of *Smt. Kalavati* (supra) and *Smt. Ushal Rani Aggarwal* (supra) we entirely agree with the reasoning of the District Forum on this aspect. Though the said act provides for penalties under Section-9 of the said act on the competent authority. Yet the act does not provide for any remedy to the consumers who have sought information under the said act for deficiency of service in the nature of compensation or damages for not furnishing the information, sought to which they are entitled to get under the said Act. Section-3 of the CPA provides additional remedy in addition to the remedies provided under other acts and it is not in derogation of any provisions of any law. The Consumer Fora has therefore, jurisdiction to entertain the complaint in respect of deficiency of service in the given facts especially when information sought was not furnished. The competent authority was required to give information within 15 days of the application in terms of Section-5 of the said Act. However, the said information was not furnished. The complainant had approached the District Forum claiming compensation/damages for deficiency of service. Even though further remedy may be available to the applicant in case information is not supplied in terms of Section-5 of the act within 15 days, yet there is no bar to approach the District Forum for deficiency of service. The remedy under the said act would take care of disciplinary action and penalty against the competent

*authority in not furnishing the information but no remedy is provided under the said act to the applicant seeking information therein, if*

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*information sought is not provided resulting in deficiency of service on that count. The applicant had paid a fee of Rs.10/- for seeking the said information. The case of the applicant would fall within the scope and ambit of Section-2(1)(o) of C.P. Act which provides that service means service of any description which is made available to potential users, which include purveying of news or supplying of other information. The complainant had availed of the services under the said act for consideration by paying fee and had sought information under the said act, which was not supplied to him which amounts to deficiency of service. The complainant is thus a consumer vis-à-vis information sought on payment under the said act. In our view therefore, the State Commission was wrong while holding that once the complainant had availed the remedy against which appeal was provided, he could not maintain a complaint under the C.P. Act.*

In the present case on hand, the opposite party fails to gave copy of the orders passed by the authorities on the representations made by the complainant mentioned in the complaint and the complainant paid fee which is required as per RTI Act rules. As such the complainant is a consumer within the purview of C.P. Act-2(1)(o) and the opposite party fails to furnish information as required by the complainant.

***Section-2(1)(o) reads as follows:***

*Service means service of any description which is made available to potential (users and includes, but not limited to) the provision of facilities in connection with banking, financing, insurance, transport, processing supply of electrical or other energy, board or lodging or both (housing construction) entertainment, amusement or the purveying of news or other information, but does not include the rendering of any service free of charge or under a contract of personal service.*

The orders passed by the Commissioner was not supplied to the complainant, as such it amounts to deficiency of service. As such the contention of the opposite party that this forum is not having jurisdiction and the application of the complainant cannot be entertained and liable to be rejected and cannot be accepted..

We are holding that this forum is having jurisdiction to entertain the applicant, as the remedy provided under C.P. Act is in addition to and not in derogation of other laws in force.

In the result, the complaint is allowed directing the opposite party to furnish the copy of the orders passed by the Commissioner of Endowments, if no orders were passed inform the same to the complainant in writing. The opposite party is further directed to pay Rs.1,000/- towards costs.

Advocate Fee is fixed at Rs.500/- included in the above costs. Comply the above order within one month.

Dictated to the Steno, transcribed by her, corrected by me and pronounced by us in the open Forum, this the 29<sup>th</sup> day of April, 2011.

Member

Member

President.

APPENDIX OF EVIDENCE

WITNESSES EXAMINED

For complainant:-

For opposite party:-

NIL

NIL

DOCUMENTS MARKED

*For complainant:-*

1. Ex.A.1 is the application Dt:12-07-2010 addressed by the complainant to the opposite party.

*For opposite party:*

NIL

President